

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

RUTH B. MENKIN	:	CIVIL ACTION
	:	
v.	:	
	:	
UNITED STATES OF AMERICA, et al.	:	NO. 14-919

ORDER

AND NOW, this 1st day of April, 2015, for the reasons set forth in the accompanying Memorandum, it is hereby ORDERED that the motion of defendant United States of America to dismiss the action for lack of subject-matter jurisdiction and for summary judgment on the merits (Doc. #28) is DENIED.¹

BY THE COURT:

/s/ Harvey Bartle III

J.

¹ As explained in the accompanying Memorandum, the Government brings this motion only under Rule 56 of the Federal Rules of Civil Procedure but seeks dismissal for lack of subject-matter jurisdiction as well as summary judgment in its favor on the merits. Because a challenge to the court's subject-matter jurisdiction is properly brought under Rule 12(b)(1) rather than Rule 56, we interpret the Government's motion as one to dismiss under Rule 12(b)(1), or, in the alternative, for summary judgment in its favor under Rule 56. See 10 Charles Alan Wright & Arthur R. Miller, Federal Practice & Procedure § 2713.